

U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

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UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

CLERK

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FRIENDS OF PINE STREET, d/b/a  
PINE STREET COALITION,

*Plaintiff,*

v.

MAYELA SOSA, in her capacity as Acting  
Executive Director of the Federal Highway  
Administration; JOE FLYNN, in his capacity  
as Secretary of the State of Vermont Agency of  
Transportation; and MIRO WEINBERGER, in  
his capacity as Mayor of Burlington,

*Defendants.*

Case No. 5:19-cv-00095-gwc

**JOINT MOTION FOR ENTRY OF STIPULATED SCHEDULING ORDER  
AND STATUS REPORT REGARDING PENDING MOTION TO INTERVENE**

In accordance with the Court's Order of July 8, 2022 (ECF Doc. No. 54), the parties to the above-captioned action, by and through their undersigned counsel, hereby move the Court to approve and so-order the following scheduling proposal:

On or before **August 15, 2022**, Defendants shall answer Plaintiff's Second Amended Complaint. In the event that the Court grants the motion to intervene, Defendants shall answer Intervenor's Complaint by the same date. Defendants' answers shall not contain any motions or otherwise require a response.

On or before **September 15, 2022**, the Federal Highway Administration shall file the administrative record.

On or before **September 30, 2022**, Plaintiff shall file, if Plaintiff so elects, a motion to amend or expand the administrative record.

On or before **October 15, 2022**, Defendants shall respond to Plaintiff's motion, if any, to amend or expand the administrative record.

On or before **November 1, 2022**, Plaintiff shall file a motion for summary judgment. In the event that the Court grants the motion to intervene, Intervenor shall file a motion for summary judgment by the same date. This deadline shall apply irrespective of the status of Plaintiff's motion, if any, to amend or expand the administrative record.

On or before **December 15, 2022**, Defendants shall file motions for summary judgment and respond to the motion for summary judgment filed by Plaintiff. In the event that the Court grants the motion to intervene, Defendants shall respond to Intervenor's motion for summary judgment by the same date.

On or before **January 15, 2023**, Plaintiff shall file a reply on its motion for summary judgment and respond to Defendants' motions for summary judgment. In the event that the Court grants the motion to intervene, Intervenor shall file a reply on its motion for summary judgment and respond to Defendants' motions for summary judgment by the same date.

On or before **February 15, 2023**, Defendants shall file replies on their motions for summary judgment.

With respect to the motions for summary judgment that are contemplated by the foregoing schedule, the parties respectfully request leave of the Court to exceed the page limitations imposed by Local Rules 7(a)(4) and 7(a)(5) as follows:

Memoranda of Plaintiff and Defendants in support of, or in opposition to, Plaintiff's or Defendants' motions for summary judgment shall not exceed 50 pages each, exclusive of exhibits and attachments, and replies shall not exceed 25 pages each, exclusive of exhibits and attachments.<sup>1</sup>

In the event that the Court grants the motion to intervene, memoranda of Intervenor and Defendants in support of, or in opposition to, Intervenor's or Defendants' motions for summary judgment shall not exceed 25 pages each, exclusive of exhibits and attachments, and replies shall not exceed 15 pages each, exclusive of exhibits and attachments.

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<sup>1</sup> In stipulating to revised page limitations with respect to the motions for summary judgment, Defendants are not conceding that it would be appropriate for Plaintiff or Intervenor to submit exhibits or attachments that consist of extra-record material, and Defendants reserve the ability to challenge the submission of any such material.

Defendants reserve the ability to file a combined cross motion for summary judgment, a combined opposition to the motion filed by Plaintiff and the motion filed by Intervenor, and/or a combined reply. In such case, any such filing shall be limited to the combined total of pages otherwise specified above.

The parties also wish to inform the Court that Defendants and applicant-for-intervention Fortieth Burlington, LLC (“Fortieth”) have reached an agreement that obviates the need for further party submissions with respect to Fortieth’s pending Motion to Intervene (ECF Doc. No. 36). Defendants and Fortieth have agreed that Defendant will not oppose the Motion to Intervene so long as Fortieth’s participation in this case is limited to: (a) filing its proposed complaint; (b) answering any counterclaims asserted against it by Defendants; (c) filing a motion for summary judgment and accompanying memorandum, as well as a response to any cross motion for summary judgment combined with a reply on its own motion, pursuant to the foregoing schedule and page limitations (and potentially addressing therein any affirmative defenses or counterclaims asserted against it by Defendants); (d) joining, if it so elects, a motion by Plaintiff to amend or expand the administrative record; and (e) responding to any motions by Defendants seeking relief against it. Fortieth Burlington hereby agrees that its Motion to Intervene shall be deemed, and hereby is, modified to reflect the foregoing limitations.

WHEREFORE, the parties respectfully request that the Court approve and so order the foregoing scheduling proposal.

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Dated in the District of Vermont this 13th day of July, 2022.

Respectfully submitted,

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*Attorneys for Applicant-for-Intervention  
Fortieth Burlington, LLC*

In Re: Friends of Pine Street v. Everett *et al*

Case No. 5:19-CV-95

APPROVED AND SO ORDERED:

  
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HON. GEOFFREY W. CRAWFORD, Chief Judge  
United States District Court

Date: 14 July 2022